

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHRISTOPHER PATTERSON,
 Plaintiff,

vs.

BILL A. BERRETT, *et al.*,
 Defendants.

Case No. 2:14-cv-01249-LDG-CWH

ORDER

Before the Court are Plaintiff Christopher Patterson's ("plaintiff") motions to inspect evidence (doc. # 27) and strike the response (doc. # 33). Also before the Court are Defendants Lt. Clark and Deputy Chief Todd Fasulo's ("defendants") responses (docs. # 31, # 37), and plaintiff's reply (doc. # 38).

BACKGROUND

This is a civil rights action pursuant to 42 U.S.C. § 1983. On July 29, 2014, plaintiff filed an application to proceed in forma pauperis and a complaint. See Doc. # 1. On October 10, 2014, the Court entered a screening order: (1) granting plaintiff's request to proceed in forma pauperis; (2) dismissing Counts II, III, and IV of plaintiff's complaint without prejudice, and without leave to amend; and (3) allowing Count I of plaintiff's complaint referring to "wristbands" to proceed, and providing plaintiff an opportunity to amend the portion regarding "religious materials." See Doc. # 2. Plaintiff failed to amend, which led the Court to issue an order dismissing the "religious materials" portion of Count I of the complaint. See Doc. # 4. Thereafter, Deputy Chief Todd Fasulo was named a defendant in this action. See Doc. # 10; Doc. # 15. The Court subsequently entered a scheduling

1 order setting a discovery cut-off date of April 30, 2015. See Doc. # 13. Since that time, the parties
2 have attempted to engage in discovery, with this Court eventually ordering plaintiff to respond to
3 defendants' discovery requests no later than June 18, 2015, without objection. See Doc. # 32.

4 DISCUSSION

5 **1. Motion to Inspect Evidence (doc. # 27)**

6 Plaintiff brings the instant motion to compel defendants to produce various documents that
7 plaintiff believes are within the custody of defendants.

8 In response, defendants contend that plaintiff has failed to comply with the prerequisites of
9 filing a motion to compel. Defendants also point out that plaintiff failed to communicate his discovery
10 requests to defendants prior to filing the instant motion. Plaintiff did not file a reply.

11 Under Rule 37(a)(1) of the Federal Rules of Civil Procedure, a party seeking to compel
12 responses to discovery requests "must include a certification that the movant has in good faith
13 conferred or attempted to confer with the person or party failing to make disclosure or discovery in an
14 effort to obtain it without court action." Fed.R.Civ.Pro. 37(a)(1). Moreover, Local Rule 26-7(b) states
15 that "[d]iscovery motions will not be considered unless a statement of the movant is attached thereto
16 certifying that, after personal consultation and sincere effort to do so, the parties have been unable to
17 resolve the matter without Court action." Loc.Civ.R. 26-7(b).

18 Rule 37's meet and confer requirement and Local Rule 26-7(b)'s personal consultation
19 requirement serve important purposes; they "lessen the burden on the court and reduce the unnecessary
20 expenditure of resources by litigants, through the promotion of informal, extrajudicial resolution of
21 discovery disputes." Nevada Power v. Monsanto, 151 F.R.D. 118, 120 (D. Nev. 1993). The
22 consultation obligation "promote[s] a frank exchange between counsel to resolve issues by agreement
23 or to at least narrow and focus matters in controversy before judicial resolution is sought." Id. To
24 serve its purpose, parties must "treat the informal negotiation process as a substitute for, and not
25 simply a formal prerequisite to, judicial review of discovery disputes." Id. To do so, the parties must
26 "present to each other the merits of their respective positions with the same candor, specificity, and
27 support during the informal negotiations as during the briefing of discovery motions." Id. Judicial
28 intervention is only appropriate when: (1) informal negotiations reach an impasse on the substantive

1 issue disputed, or (2) a party acts in bad faith by refusing to engage in negotiations or by refusing to
2 provide specific support for its claims of privilege. Id.

3 Here, plaintiff has not even bothered to communicate his discovery requests to defendants
4 before filing the instant motion. Thus, plaintiff fails to demonstrate that he has attempted to engage
5 in the type of meet and confer process or personal consultation contemplated by the rules. As such,
6 plaintiff's motion is denied.

7 **2. Motion to Strike the Response (doc. # 33)**

8 Plaintiff also asks the Court to strike defendants' response (doc. # 31) to plaintiff's motion to
9 inspect evidence (doc. # 27).

10 Defendants, in opposition, point out that plaintiff fails to provide any basis for the Court to
11 strike the response. Defendants also point out that plaintiff fails to provide the Court with any
12 evidence demonstrating his efforts to obtain discovery from defendants. Defendants add that plaintiff
13 even admits he has failed to utilize the proper procedures to obtain the discovery he seeks.

14 In reply, plaintiff reiterates his request to strike defendants' response (doc. # 31), claiming he
15 is entitled to such because defendants are "unjustly infringing" on his rights.

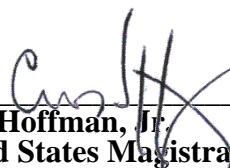
16 This Court agrees with defendants that no basis exists for granting the instant motion.

17 **CONCLUSION AND ORDER**

18 Accordingly, **IT IS HEREBY ORDERED** that plaintiff's motion to inspect evidence (doc.
19 # 27) is **denied**.

20 **IT IS FURTHER ORDERED** that plaintiff's motion to strike the response (doc. # 33) is
21 **denied**.

22 DATED: July 15, 2015

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25 
26 C.W. Hoffman, Jr.
27 United States Magistrate Judge
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